

## CHAPTER 78 ANIMALS

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#### **78-1. Definitions.** In this chapter:

1. **ANIMAL FANCIER** means any person in a residential dwelling unit who keeps, harbors, raises or possesses any combination of dogs or cats numbering not less than 4 nor more than 5 animals over the age of 5 months.
2. **APPROVED** means approved by the commissioner.
3. **AT LARGE** means an animal is off the premises of its owner and on any public street or alley, school grounds, a public park, or other public grounds or on private property without the permission of the owner or person in

lawful control of the property. An animal shall not be deemed to be at large if:

a. It is attached to a leash not more than 6 feet in length which is of sufficient strength to restrain the animal and the leash is held by a person competent to govern the animal and prevent it from annoying or worrying pedestrians or trespassing on private property or trespassing on public property where such animals are forbidden; or

b. It is properly restrained within a motor vehicle; or

c. It is a dangerous animal that is in compliance with the requirements of s. 78-23-2.

4. **BODILY HARM** means physical pain or injury or any impairment of physical condition.

5. **CARETAKER** means any person 16 years of age or older who, in the absence of the owner, temporarily harbors, shelters, keeps or is in charge of a dog, cat or any other domesticated bird or animal.

6. **CAT** means a domesticated member of *felis domestica*.

7. **COMMISSIONER** means the commissioner of health, his or her designated representative within the health department, or any other city official to whom the commissioner's functions or duties under this chapter have been delegated pursuant to a memorandum of understanding.

8. **COMMISSIONER OF PUBLIC WORKS** means the legally designated head of the department of public works of the city of Milwaukee or his or her authorized representative.

9. **DANGEROUS ANIMAL** means:

a-1. Any animal which, when unprovoked, bites or otherwise inflicts bodily harm on a person, domestic pet or animal on public or private property.

a-2. Any animal which chases or approaches a person in a menacing fashion or apparent attitude of attack without provocation upon the streets, sidewalks or any public grounds or on private property without the permission of the owner or person in lawful control of the property.

a-3. An animal with a known propensity, tendency or disposition to attack, to cause injury to, or to otherwise threaten the safety of humans or other domestic pets or animals.

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b. The biting or injury of a person by an animal shall in the absence of contrary evidence be presumed to be due to an unprovoked attack. Provocation of the animal by the person or animal that is bitten or injured or the fact that the animal bit or injured another person or animal as a result of provocation shall be considered in mitigation and if the provocation is purposeful or substantial, the court may accept the alleged bite or injury as self-defense by the animal and not classify the animal as dangerous.

c. An animal shall not be deemed a dangerous animal if it bites, attacks or menaces any person or animal to:

c-1. Defend its owner, caretaker or another person from an attack by a person or animal.

c-2. Protect its young or another animal.

c-3. Defend itself against any person or animal which has tormented, assaulted or abused it.

c-4. Defend its owner's or caretaker's property against trespassers.

9.5. DEPARTMENT means the health department or any department to which health department functions or duties under this chapter have been delegated pursuant to a memorandum of understanding.

10. DOG means a domesticated member of canis familiaris.

11. DOMESTICATED ANIMAL means any bird or animal of any species which usually lives in or about the habitation of humans as a pet or animal companion. The term does not include a dangerous animal or a prohibited dangerous animal.

12. DWELLING UNIT means one or more rooms, including a bathroom and kitchen facilities, which are arranged, designed or used as living quarters for one family or household.

13. FOWL means all domesticated birds and non-domesticated game birds ordinarily considered to be edible.

14. GROOMING means care or service provided to the exterior of an animal to change its looks or improve its comfort but does not mean the treatment of physical disease or deformities.

15. GROOMING ESTABLISHMENT means a business establishment in which a domesticated bird or animal is received for grooming.

16. KENNEL means an establishment in which more than 3 dogs or 3 cats, or any

combination thereof, over the age of 5 months may be kept for boarding, breeding, safekeeping, convalescence, humane disposal, placement, sale or sporting purposes. This is the same type of facility referred to as an "animal boarding facility" in ch. 295.

17. MULTIPLE DWELLING means a commercial or residential building consisting of 3 or more dwelling units.

18. OWNER means any person owning, harboring, sheltering or keeping a dog, cat or any other domesticated bird or animal.

19. PERSON means any individual, firm, corporation or other legal entity.

20. PET SHOP means a business establishment, other than a kennel, where domesticated mammals, birds, fish or reptiles are kept for sale.

21. PIT BULL means any dog which is one-half or more American staffordshire terrier, staffordshire terrier, American pit bull terrier, miniature bull terrier or staffordshire bull terrier.

22. PROHIBITED DANGEROUS ANIMAL means:

a. Any animal that is determined to be a prohibited dangerous animal under s. 78-25.

b. Any animal that, while off the owner's or caretaker's property, has killed a domestic pet or animal without provocation.

c. Any animal that, without provocation, inflicts substantial bodily harm on a person on public or private property.

d. Any animal brought from another city, village, town or county that is described under s. 78-5-2-b.

e. Any dog that is subject to being destroyed under s. 174.02(3), Wis. Stats.

f. Any dog trained, owned or harbored for the purpose of dog fighting.

23. ROTTWEILER means any dog which is one-half or more rottweiler.

24. SUBSTANTIAL BODILY HARM means bodily injury that causes a laceration that requires stitches, any fracture of a bone, a concussion, a loss or fracture of a tooth or any temporary loss of consciousness, sight or hearing.

**78-3. Owner or Caretaker's Duty; Presumption. 1.** The owner or caretaker of any animal shall confine, restrain or maintain control over the animal so that the unprovoked animal does not attack or injure any person or domesticated animal.

2. The occupant of any premises on which a dog, cat or any other domesticated bird or animal remains or to which it customarily returns daily for a period of at least 10 days shall be presumed, for purposes of enforcement of this chapter, to be harboring, sheltering or keeping the animal.

**78-5. Keeping of Animals Within City.**

1. PERMITTED ANIMALS. No animal that is not a domesticated animal may be kept or brought into the city except as provided in s. 78-23 or as otherwise authorized by the commissioner.

2. CERTAIN ANIMALS PROHIBITED.

a. Except as otherwise provided in this chapter, no person shall keep within the city, either temporarily or permanently, any live bees, fowl, cows, cattle, horses, sheep, swine, goats, chickens, ducks, turkeys, geese or any other domesticated livestock, provided, however, that such animals or fowl may be kept at places approved by the commissioner for slaughtering, educational purposes, research purposes and for circuses or similar recreational events. Upon approval by the commissioner, horses used for livery service may be kept within the city. No rabbits or guinea pigs shall be kept within any portion of any multiple dwelling.

b. No person may bring into or keep in the city an animal that a Wisconsin city, village, town or county has declared dangerous or vicious, has banished from the city, village, town or county or has ordered to be destroyed. The commissioner may declare such an animal to be a prohibited dangerous animal in Milwaukee upon receipt of an official written declaration from the other city, village, town or county setting forth the grounds for the declaration, the name of the animal, if known, and the description of the animal.

c. No person may bring into or keep in the city, for sale or otherwise, either for food or for any other purposes whatsoever, any animal which, in accordance with the recommendations of the Compendium of Animal Rabies Control from the National Association of State Public Health Veterinarians, Inc., is not able to be effectively vaccinated against rabies, or any animal dead or alive, bird, insect, reptile or fish which is otherwise dangerous or detrimental to health.

3. NUMBER PERMITTED. No person may keep, harbor, shelter or possess at any time more than 3 dogs or cats or any combination thereof which are over the age of 5 months unless the person holds a valid animal fancier permit, kennel permit, pet shop permit or grooming establishment permit. The keeping of more than 3 dogs or cats over the age of 5 months per dwelling unit in a multiple dwelling is declared to be a nuisance. No person in a multiple dwelling shall be granted an animal fancier permit. There shall be no more than one animal fancier permit issued to any qualified dwelling unit.

4. ANIMAL REMOVAL. The department or the humane society may confiscate and remove animals from a premises for violation of subs. 1, 2 or 3 or ss. 78-23, 25 and 31. The department may convey such animals to the humane society to be housed and handled appropriately. If necessary, such animals may be disposed of in a humane manner by the department, humane society or their designee.

**78-7. Kennels, Horse Stables and Animal Fancier Permits.**

1. KENNELS AND HORSE STABLES. a. Permit Required. No person shall operate a kennel or horse stable without a valid permit issued by the commissioner. When all applicable provisions of this section along with applicable federal and state of Wisconsin requirements have been complied with by the applicant and a valid occupancy permit for this business has been issued by the commissioner of city development, the commissioner shall issue a permit to operate upon payment of the fee required in s. 60-51.

b. Kennels; Operation. Kennels shall be operated in accordance with the following requirements:

b-1. All animals shall be maintained in a healthy condition, or if ill shall be given appropriate treatment immediately.

b-2. The quarters in which the animals are kept shall be maintained in a clean condition and in a good state of repair.

b-3. Animal pens or enclosures shall be large enough to provide freedom of movement to the animals contained therein and shall be constructed of nonporous and noncorrosive materials. Dogs and cats over the age of 5 months shall be housed in separate

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enclosures with enough space as set by applicable federal requirements with no more than 3 dogs or 3 cats contained within the same enclosure. Animals shall not have the freedom to roam the business establishment.

b-4. Food supplies shall be stored in rodent-proof containers and food and water containers shall be kept clean.

b-5. Litter or bedding material shall be changed as often as necessary to prevent an odor nuisance.

b-6. Feces shall be removed from yards, pens and enclosures at least daily and stored in tightly covered metal containers until final disposal.

b-7. Yards, pens, premises and animals shall be kept free of pest infestations.

b-8. No odor nuisance shall be permitted. Any animal holding area containing animals shall be provided with fresh air by means of windows, doors, vents, exhaust fans or air conditioning so as to minimize drafts, odors and moisture condensation.

b-9. Kennels shall also be operated in accordance with requirements set forth in s. 78-9-3 to 5. Nothing in this section shall apply where kennel services are incidental to the operation of a veterinary hospital.

c. Horse Stables; Operation. Horse stables shall, in addition to the requirements set forth in sub. b-1, 2, 4 to 8 and s. 78-5, be operated in accordance with the following:

c-1. Horse stalls or enclosures shall be large enough to provide freedom of movement to the animals contained therein and shall be constructed of such materials and in such a manner as to comply with all local, state and federal requirements.

c-2. Horses shall be stabled indoors.

c-3. The temperature of the stable shall comply with all local, state and federal animal welfare regulations.

c-4. An approved water supply shall be provided to all parts of the stable for the horses and to be used for wet cleaning.

c-5. Floor drains connected to an approved sewage system must also be provided.

### 2. ANIMAL FANCIER PERMITS.

a. The commissioner shall issue an animal fancier permit upon the payment of all applicable fees required in s. 60-3, provided that the owner has no outstanding violations under this chapter.

b-1. Whenever the department requests an inspection of the interior and exterior premises of a person holding an animal fancier permit or of an applicant for an animal fancier permit, the animal fancier or applicant shall schedule such an inspection and allow the inspection to be completed no later than 10 days after the date of the request. A request for a department inspection under this paragraph may be made by any of the following means:

b-1-a. An oral request delivered in person to the applicant or permit holder.

b-1-b. An oral request delivered by telephone to the applicant or permit holder.

b-1-c. A written request left at the residence or place of occupation of the applicant or permit holder.

b-1-d. A written request delivered to a competent adult occupant of the applicant's or permit holder's residence.

b-1-e. A written request addressed to the applicant or permit holder at his or her residence and mailed by first class, prepaid mail.

b-2. A person who fails to comply with an inspection request as required by this paragraph shall be charged a delayed inspection fee in the amount provided in s. 60-3-4.

c. A person holding an animal fancier permit shall conform to the requirements set forth in sub. 1-b-1 to 8.

d. An animal fancier permit may be revoked if an owner does not conform to the requirements set forth in sub. 1-b-1 to 8.

**78-9. Pet Shops. 1. PERMIT REQUIRED.** No person may operate a pet shop unless the person holds a valid permit issued by the commissioner. When all applicable provisions of this section have been complied with by the applicant and a valid occupancy permit for this type of business has been issued by the commissioner of city development, the commissioner shall issue a permit to operate a pet shop upon the payment of the fee required in s. 60-69.

**2. OPERATION.** Pet shops shall be operated in accordance with the requirements set forth in s. 78-7-1-b-1 to 8.

**3. IMMUNIZATION.** No pet shop may sell or offer for sale any dog or cat 5 or more months old unless the dog or cat has been vaccinated against rabies by use of a vaccine currently licensed by the U.S. department of agriculture. The vaccine shall be

administered by or under the supervision of a licensed veterinarian. A certificate of vaccination identifying the dog or cat including its approximate age, date of vaccination and signed by the vaccinating veterinarian shall be given the purchaser at the time of sale.

4. **RECORD OF SALE.** Every pet shop shall keep a record of every dog and cat sold by the establishment setting forth the date and source of acquisition, date of rabies vaccination, the date of sale and the name and address of the purchaser. Such records shall be maintained on the pet shop premises for at least one year following the date of sale of each dog and cat, and such records shall be open to inspection by the commissioner at all times during which the pet shop is open to the public.

5. **SALE OF BATS, FOXES, RACCOONS AND SKUNKS PROHIBITED.** No pet shop may engage in the purchase, keeping, distribution or sale of any species of bats, foxes, raccoons or skunks.

**78-11. Grooming Establishments. 1. PERMIT REQUIRED.** No person may operate a grooming establishment without a valid permit issued by the commissioner. When all applicable provisions of this section have been complied with by the applicant and a valid occupancy permit for this business has been issued by the commissioner of city development, the commissioner shall issue a permit to operate a grooming establishment upon the payment of the fee required in s. 60-43.

2. **OPERATION.** Animal grooming establishments shall, in addition to the requirements set forth in s. 78-7-1-b-2, 3 and 8, be operated in accordance with the following:

a. The floor of any room in which grooming operations are conducted or in which animals are kept shall be covered with an impervious, smooth, cleanable surface. The floors shall be cleaned and disinfected daily.

b. All animal hair and manure shall be removed from the floors daily and shall be stored in tightly covered, waterproof containers in such a manner as to prevent a nuisance until the final disposal.

c. In each grooming establishment that uses a bathtub, such bathtub shall be large enough to accommodate the largest animal groomed. The tub shall be made of approved material and shall be properly connected to an approved water system consisting of hot and

cold running water and to an approved sewer or waste disposal system.

d. No animals shall be kept in any grooming establishment other than during regular office hours unless a valid kennel or pet shop permit is also issued for the same location. Nothing in this section shall apply to an establishment where grooming is incidental to the operation of a veterinary hospital.

e. The premises shall be kept free of insect and rodent infestation.

f. The premises shall be maintained and operated in a nuisance free manner.

**78-13. Posting of Permit.** Every kennel, pet shop or grooming establishment permit issued by the commissioner shall be posted in a conspicuous place open to the public.

**78-15. Sanitary Conditions of Commercial Animal Establishment.** All commercial kennels, hutches, runs, yards or any other commercial structures or premises where animals permitted to be kept in accordance with this chapter are housed or kept shall be maintained in a clean and sanitary condition.

**78-17. Dog and Cat Licenses. 1. REQUIRED.** Any person owning, keeping, harboring or having custody of any dog or cat over 5 months of age within the city of Milwaukee must obtain a license as provided in this section and in accordance with ch. 174, Wis. Stats., relating to dogs, and ch. 26, Milwaukee County Code of Ordinances, relating to cats. Any person obtaining a dog or cat that is older than 5 months of age shall have 30 days to apply for an original license, except this requirement will not apply to a nonresident keeping a dog or cat within the city for less than 30 days.

2. **APPLICATION.** Application for licenses shall be made to the city treasurer and shall include the name and address of the applicant, description of the animal, the appropriate fee, whether the animal is spayed or neutered and a rabies certificate or tag issued by a licensed veterinarian illustrating that the animal for which the license is sought has received current immunization for rabies or a statement issued by a licensed veterinarian that the immunization for rabies is contraindicated for the animal. A rabies certificate or tag shall be deemed valid if the termination date of the immunization falls after the date of the application for the license. Written proof is required from a licensed

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veterinarian that the animal being licensed has been spayed or neutered in order to qualify for a reduced license fee.

3. FEES. A license shall be issued after payment of the fee specified in s. 60-7.

4. PAYMENT RESPONSIBILITY. The owner, harborer, shelterer or head of the family shall be liable for payment of the license fee of any dog or cat owned, harbored or kept by any member of the family.

5. ISSUANCE. Upon acceptance of the license application and fee, the city treasurer shall issue a tag and a license. The tag shall be securely attached by the licensee to a collar or harness and the collar or harness with the tag attached shall be kept on the dog or cat for which the license is issued at all times. This requirement does not apply to a dog or cat securely confined indoors or in a fenced area.

### 78-19. Animals at Large; Animal Litter Nuisance.

1. UNLAWFUL. No owner or caretaker of any animal may permit or suffer the animal to be at large. Any animal found at large shall be deemed to be so with the permission or at the sufferance of its owner or caretaker. Any adult person alone or together with other adults may seek relief from animals at large by a complaint to the commissioner setting forth the specific date and approximate time an animal of a particular owner was observed by them to be at large. The commissioner shall notify the owner or caretaker of the animal, in writing, of the alleged violation and provisions of this section. If the petitioners subsequently observe that the animal is again at large, they may submit a written petition to the city attorney for commencement of prosecution to obtain compliance with this section. Such written petition shall contain:

- a. Name and address of complainant.
- b. Description of animal and address of owner.
- c. Dates and times violations were noted.
- d. Date reported to commissioner.
- e. Statement that petitioners will be willing to sign complaint and testify in court.

2. SETTING AT LARGE. No person may permit an animal to run at large by opening any door or gate of any premises or loosen any restraining device or otherwise entice any animal to leave any place of confinement.

3. ANIMAL LITTER NUISANCE. No owner or caretaker of any animal may appear with the animal on any street, alley, sidewalk, lawn, field or any public property or upon a property other than their own without a shovel, scoop, bag or other items for the removal of fecal matter. The owner or caretaker of an animal shall immediately after deposit of fecal matter on such premises remove all fecal matter by shovel, scoop, bag or other item and properly wrap and deposit the fecal matter in an approved waste container as specified in s. 79-4 situated upon his or her own premises.

4. COMPLAINTS. Any adult person alone or together with other adults may seek relief from animal fecal matter deposits as described in sub. 3 by a complaint to the commissioner in the same manner and procedure as set forth in sub. 1.

### 78-21. Impounding of Animals.

1. IMPOUNDING. Any police officer or humane officer finding an animal at large may seize the animal and impound it in the place designated by the commissioner. The commissioner may also cause the seizure and impoundment of animals at large.

2. REPOSSESSION. The possession of any animal so seized or impounded may be obtained by the owner upon payment of the fee required in s. 60-5 plus the current daily fee for keeping such animal for each calendar day or fraction thereof during which the animal has been impounded. The possession of an unlicensed dog or cat may be obtained by the owner after he or she obtains the required license and pays the specified impoundment and daily fee for keeping the dog or cat.

78-22. Pit-Bull and Rottweiler Dogs. The owner of any pit bull dog, as defined in s. 78-1-21, or any rottweiler dog, as defined in s. 78-1-23, shall comply with all of the following:

1. While leashed, the leash shall be held by a person 16 years of age or older, who is competent to govern the animal. The leash may be held by a person younger than 16 years of age upon prior written approval of the department of neighborhood services or when shown in a sanctioned American Kennel Club show or other organized competition among trained owners and dogs. The written approval shall be carried by the person younger than age 16.

2. Have a yard or kennel area with a fence which the commissioner determines to be of sufficient height to contain the dog. The kennel area shall have a concrete floor.

3. Attend a minimum of one dog behavior or training class offered by a trainer recommended by the Wisconsin Humane Society or the Milwaukee Dog Training Club.

### **78-23. Harboring Dangerous Animals.**

1. DANGEROUS ANIMALS REGULATED. a. No person may harbor or keep a dangerous animal within the city unless all provisions of this section are complied with. Any animal that is determined to be a prohibited dangerous animal under s. 78-25-2 shall not be kept or harbored in the city.

b. The commissioner may determine an animal to be a dangerous animal whenever the commissioner finds that an animal meets the definition of a dangerous animal in s. 78-1-9.

c. The issuance of a citation for a violation of this section need not necessarily be predicated on a determination by the commissioner that an animal is a dangerous animal.

2. LEASH AND MUZZLE. No person owning, harboring or having the care of a dangerous animal may permit such animal to go outside its kennel or pen unless the animal is securely leashed with a leash no longer than 4 feet in length. No person may permit a dangerous animal to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person who is 16 years of age or older, competent to govern the animal and capable of physically controlling and restraining the animal is in physical control of the leash. The animal may not be leashed to inanimate objects such as trees, posts and buildings. A dangerous animal on a leash outside the animal's kennel shall be muzzled in a humane way by a muzzling device sufficient to prevent the animal from biting persons or other animals. A dangerous animal shall not be required to be muzzled upon prior written approval of the health department or when shown in a sanctioned American Kennel Club show. The written approval shall be carried by the owner or caretaker.

3. CONFINEMENT. a. Except when leashed and muzzled as provided in sub. 2, all dangerous animals shall be securely confined

indoors or in a securely enclosed and locked pen or kennel that is located on the premises of the owner or caretaker and constructed in a manner that does not allow the animal to exit the pen or kennel on its own volition.

b. When constructed in an open yard, the pen or kennel shall, at a minimum, be constructed to conform to the requirements of this paragraph. The pen or kennel shall be child-proof from the outside and animal-proof from the inside. A strong metal double fence with adequate space between fences (at least 2 feet) shall be provided so that a child cannot reach into the animal enclosure. The pen, kennel or structure shall have secure sides and a secure top attached to all sides. A structure used to confine a dangerous animal shall be locked with a key or combination lock when the animal is within the structure. The structure shall either have a secure bottom or floor attached to the sides of the pen or the sides of the pen shall be embedded in the ground no less than 2 feet. All structures erected to house dangerous animals shall comply with all city zoning and building regulations. All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

4. CONFINEMENT INDOORS. No dangerous animal may be kept on a porch, patio or in any part of a house or structure on the premises of the owner or caretaker that would allow the animal to exit the building on its own volition. No dangerous animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the animal from exiting the structure.

5. SIGNS. The owner or caretaker of a dangerous animal shall display, in prominent places on his or her premises near all entrances to the premises, signs in letters of not less than 2 inches high warning that there is a dangerous animal on the property. A similar sign is required to be posted on the kennel or pen of the animal. In addition, the owner or caretaker shall conspicuously display a sign with a symbol warning children of the presence of a dangerous animal.

6. SPAY AND NEUTER REQUIREMENT. Within 30 days after an animal has been designated dangerous, the owner or caretaker of the animal shall provide written proof from a licensed veterinarian that the animal has been spayed or neutered.

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**7. LIABILITY INSURANCE.** The owner or caretaker of a dangerous animal shall present to the department or police department proof that the owner or caretaker has procured liability insurance in an amount not less than \$1,000,000 for any personal injuries inflicted by the dangerous animal. Whenever such a policy is cancelled or not renewed, the insurer shall so notify the department.

**8. WAIVER BY COMMISSIONER.** Upon request, the commissioner may waive any requirement specified in subs. 2 to 7 that the commissioner deems to be inappropriate for a particular dangerous animal.

**9. APPEAL.** Upon investigation, a department or humane officer may issue an order declaring an animal to be a dangerous animal. Whenever an owner or caretaker wishes to contest an order, he or she shall, within 72 hours after receipt of the order, deliver to the department a written objection to the order. If an owner or caretaker makes such an objection to the order, the department shall convene a hearing before a dangerous animal panel. The procedure for such appeal and the composition of the panel shall all be as specified ins. 78-25.

**10. NOTIFICATION.** The owner or caretaker shall notify the department or police department within 24 hours if a dangerous animal is at large, is unconfined, has attacked another animal or has attacked a human being, has died, has been sold or has been given away. If the dangerous animal has been sold or given away, the owner or caretaker shall also provide the department or police department with the name, address and telephone number of the new owner of the dangerous animal. If the dangerous animal is sold or given away to a person residing outside the city, the owner or caretaker shall present evidence to the department or police department showing that he or she has notified the police department or other law enforcement agency of the animal's new residence, including the name, address and telephone number of the new owner of the dangerous animal.

**11. EUTHANASIA.** If the owner or caretaker of an animal that has been designated a dangerous animal is unwilling or unable to comply with the regulations for keeping the animal in accordance with this section, he or she may have the animal humanely euthanized by an animal shelter, the humane society or a licensed veterinarian.

**12. WAIVER.** The commissioner may waive the provisions of subs. 2 to 7 for a law enforcement or military animal upon presentation by the animal's owner or handler of a satisfactory arrangement for safe keeping of the animal.

### **78-25. Prohibited Dangerous Animals.**

**1. NOT ALLOWED IN CITY.** No person may bring into or keep in the city any animal that is a prohibited dangerous animal under this section.

**2. DETERMINATION OF A PROHIBITED DANGEROUS ANIMAL.** a. The commissioner may determine an animal to be a prohibited dangerous animal whenever the commissioner finds that an animal meets the definition of a prohibited dangerous animal in s. 78-1-22 or is a dangerous animal in non-compliance with any of the provisions of s. 78-23.

b. Upon investigation, a department or humane officer may issue an order declaring an animal to be a prohibited dangerous animal. Whenever an owner or caretaker wishes to contest an order, he or she shall, within 72 hours after receipt of the order, deliver to the department a written objection to the order. The written objection shall include the specific reasons for objecting to or contesting the order. If an owner or caretaker makes such an objection to the order, the department shall convene a hearing. The hearing shall be conducted before a 3-person dangerous animal panel composed of an environmental health professional, a humane officer and a veterinarian, as designated by the commissioner of neighborhood services. Each panel member serves as an officer of the city exercising a quasi-judicial function within the scope of s. 893.80, Wis. Stats. At the hearing, the owner or caretaker shall have the opportunity to present evidence as to why the animal should not be declared a prohibited dangerous animal. The hearing shall be held promptly and within no less than 5 days nor more than 10 days after service of a notice of hearing upon the owner or caretaker of the animal.

c. Pending the outcome of the hearing, the animal must be securely confined in a humane manner either on the premises of the owner or caretaker or with a licensed veterinarian. The commissioner may order impoundment of the animal pending the result of the hearing.



d. After the hearing, the owner or caretaker shall be notified in writing of the panel's determination. If a determination is made that the animal is a prohibited dangerous animal, the owner or caretaker shall comply with sub. 1 in accordance with a time schedule established by the commissioner or chief of police, but in no case more than 30 days after the date of the determination. If the owner or caretaker further contests the determination, he or she may, within 5 days of receiving the panel's decision, appeal the decision to the administrative review appeals board.

3. **DESTRUCTION.** Any dog that has caused bodily harm to a person or persons on 2 separate occasions off the owner's premises, without reasonable cause, may be destroyed as a result of judgment rendered by a court of competent jurisdiction, as specified under s. 174.02(3), Wis. Stats. The city attorney may petition an appropriate court to obtain a court order to destroy such a dog.

4. **ENFORCEMENT.** The department and police department may make whatever inquiry is deemed necessary to ensure compliance with this section.

5. **WAIVER.** The commissioner may waive the provisions of this section for a law enforcement or military animal upon presentation by the animal's owner or handler of a satisfactory arrangement for safe keeping of the animal.

**78-27. Control of Rabid Animals.** 1. The owner of any animal which has contracted rabies or which has been exposed to rabies or which is suspected of having rabies or which has bitten any person and is capable of transmitting rabies shall upon demand of the police department or commissioner produce and surrender the animal to the police department or commissioner to be held in quarantine in a place designated by the commissioner for observation for a period of time determined by the commissioner.

2.a. If, upon investigation by the commissioner an animal other than a dog or cat has bitten a person or appears to be infected with rabies, the animal may be destroyed as directed by the commissioner, in accordance with s. 95.21(4)(b), Wis. Stats.

b. If, upon investigation by the commissioner and a determination by a veterinarian that a dog or cat exhibits symptoms of rabies, the dog or cat may be destroyed as directed by the commissioner, who shall act in accordance with s. 95.21(5)(d), Wis. Stats.

3. No person may knowingly harbor or keep any animal infected with rabies or any animal known to have been bitten by a rabid animal.

**78-29. Animals; Disturbing the Peace.**

1. **COMPLAINTS.** No person may own, keep, have in his or her possession or harbor any bird or animal which by frequent and habitual howling, yelping, barking or otherwise shall cause serious annoyance or disturbance to persons in the neighborhood. No prosecution may be commenced except upon the request of the commissioner following written complaint signed by one or more affected adult persons. No persons may be convicted under the provisions of this section except upon testimony of one or more adult persons.

2. **CITATIONS.** Notwithstanding sub. 1, enforcement personnel from the department and the police department may utilize a citation to help obtain relief from animal annoyances. In such instances, a notice shall be issued to the owner or caretaker of the animal producing the alleged nuisance specified by the complainant. Following issuance of such notice and where subsequent complaints are received of an alleged continued nuisance, the designated enforcement agencies may attempt to verify the reported animal nuisance. Where such verification is accomplished, these enforcement personnel may issue or cause to be issued a citation in accordance with other provisions of this chapter on the owner or caretaker of the animal causing the disturbance.

**78-31. Cruelty to Animals.** 1. **CRUELTY.** a. No person may cause, allow or personally beat, frighten, overburden or abuse any animal or bird, or use any device or chemical substance by which pain, suffering or death may result, whether the animal belongs to the person or another, except that reasonable force may be used to drive off dangerous or trespassing animals.

b. No person shall abandon or transport any animal or bird in a cruel manner.

2. **FOOD AND WATER.** No person owning or having custody of any animal or bird may neglect or fail to provide it with necessary nourishing food at least once daily and provide a constant supply of clean water to sustain the animal or bird in good health.

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3. SHELTER. a. No person may fail to provide any animal or bird in his or her charge with shelter from inclement weather to insure the protection and comfort of the animal or bird.

b. When sunlight is likely to cause overheating or discomfort to any animal or bird, shade shall be provided by natural or artificial means to allow protection from the direct rays of the sun.

c. Dogs and cats kept outdoors for more than one hour at a time shall be provided with moistureproof and windproof shelter of a size which allows the animal to turn around freely and to easily sit, stand and lie in a normal position and to keep the animal clean, dry and comfortable. Whenever the outdoor temperature is below 40° F, clean, dry bedding material in quantity and type approved by a duly appointed humane society officer shall be provided in such shelters for insulation and to retain the body heat of the animal. Automobiles shall not be used as animal shelters.

4. LEASHES. Chains, ropes or leashes shall be placed or attached so that they cannot be entangled with another animal or object and shall be of sufficient length in proportion to the size of the animal to allow the animal proper exercise and convenient access to food, water and shelter. A leash shall be located so as not to allow an animal to trespass on public or private property nor in such a manner as to cause harm or danger to persons or other animals.

5. ANIMAL FIGHTING. a. Instigation. No owner or caretaker of any animal shall cause or allow any animal to lunge at, or fight any other animal or person.

b. Veterinary care. No owner or caretaker of any animal which has attacked or fought with another animal or person shall fail to get prompt veterinary care for the animal if the animal is bleeding or injured, and shall provide a copy of a current dog license upon request.

**78-33. Nuisance Birds.** Starlings, English sparrows and feral pigeons are declared a public nuisance and may be trapped or destroyed under the supervision of the commissioner subject to applicable federal and state regulations.

**78-35. Bird Feeding.** Feed for birds shall be placed in a covered hopper, gravity type feeder. The platform of the feeders shall be of reasonable size and surrounded by a ledge to deter food from blowing off. The feeder shall be placed on top of a rodent-proof pole which extends at least 3.5 feet above the ground and shall be placed at least 6 feet from the nearest climbable object, or the feeder may be suspended from a tree if protected by rodent guards. Feed for birds shall not be placed on the ground where it is accessible to rodents. No more than 4 bird feeders shall be located on any premises.

**78-37. Pigeon Harborages.** Whenever the owner or tenant of any property in the vicinity of a premises upon which there are pigeon harborages makes a complaint to the department of a feral pigeon nuisance and if a pigeon nuisance is found to exist, the commissioner shall order the owner or manager of the premises to make the premises reasonably pigeon-proof and when necessary cover openings with hardware cloth or other suitable material for preventing pigeons from entering in or upon the premises.

**78-39. Selling Baby Fowls.** No person may display, give away or sell baby chicks or ducklings or any other young of domestic or nondomestic fowl as pets or novelties.

**78-41. Stuffed Animals; Preservatives.** No person may sell dead, stuffed birds or animals as novelties which have been preserved with arsenic or any other substance toxic to humans.

**78-43. Turtles.** No person may sell live turtles with a carapace length of less than 4 inches as pets or novelties.

**78-45. Giving Away Animals as Prizes.** No person may raffle or give as a prize or premium any live animal.

**78-47. Display of Birds in Food Establishments.** No person may display birds of the psittacine family in any store selling, giving away or preparing food or drink for human consumption unless the birds are so enclosed as to prevent any possible contamination of the food or drink.

**78-49. Removal of Dead Animals.** Any person owning or having charge or control of any dead animal except those intended for food purposes shall remove the same from the city within 12 hours after the time of the death of the animal or shall request the commissioner of public works to remove and dispose of the animal. Any person who fails to do so shall relinquish all rights to any such animal and the commissioner may order the animal removed after the expiration of such time.

**78-51. Disposal of Dead Animals and Condemned Meat Products.** The commissioner of public works shall collect and dispose of all dead animals reported or found within the city, any fish, poultry or meat products which may be condemned by and ordered removed by the commissioner, and dead fish harvested by the harbor commission. Such collection and disposal may be provided by representatives of the commissioner of public works, or the commissioner of public works may cause the collection and disposal by private contractor. All collection and disposal shall be undertaken within 12 hours of notice and in a safe and sanitary manner satisfactory to the commissioner.

**78-53. Conveyance of Dead Animals.**

1. **PARKING.** No person may cause or allow any means of conveyance, including railway cars, used for the transport of dead animals, whether filled or partially filled, to remain at any point within the city for a period longer than 24 hours. No odor nuisance may be created by such parking.

2. **SANITARY CONDITION.** No person may cause or allow any conveyance or vehicle which is used for the transport of dead or live animals when the same is not in use to be stored or kept on any premises in the city unless the conveyance or vehicle has been cleaned, disinfected and deodorized or as may otherwise may be directed by the commissioner.

3. **CONSTRUCTION.** No person may use or cause to be used any conveyance or vehicle to carry or hold dead animals or animal refuse in the city, unless the conveyance or vehicle has watertight floors and sides and unless the conveyance or vehicle is constructed and arranged to shield its contents from view and prevent leakage or loss of contents or escape of odors.

**78-55. Penalties and Enforcement.**

1. **BY ORDER.** a. Whenever any violation of this chapter is found, the commissioner may issue a written order setting forth the character of the violation. This order may be served in any of the following ways:

a-1. Personally.

a-2. By posting in a conspicuous location on the premises where an animal is kept.

a-3. By mailing with an affidavit of the same to the operator of the establishment or place, or to a person responsible for a violation at his or her last known address.

a-4. By leaving a copy at his or her usual place of business with a responsible employee, or his or her usual place of abode in the presence of some competent member of the family at least 14 years of age, which employee or family member shall be informed of the contents of the order.

b. The order shall direct the person to correct such practices or conditions within a reasonable period of time to be determined by the commissioner. The order shall also state the potential legal or enforcement consequences if such practices or conditions have not been corrected within that period of time.

2. **SUSPENSION OR REVOCATION OF PERMITS.** a. **Suspension.** If at the end of a period of time set forth in an order, a reinspection by the commissioner reveals that the practices or conditions have not been corrected and such practices or conditions pose a potential threat to the health of persons exposed, the commissioner may notify the operator of the business or place of the commissioner's intent to suspend the permit and give such notice in writing to the operator and also the operator's right to a hearing and the request procedure. When the commissioner determines that existing conditions and violations pose an imminent and immediate and dangerous threat to the health of persons exposed to such conditions, the commissioner may order immediate suspension of a permit by written notification along with instructions on the hearing procedure for review of such an action.

b. **Revocation.** The commissioner may serve written notice to an operator of the commissioner's intent to revoke a permit issued pursuant to this chapter and shall notify the operator of his or her right to a hearing prior to the action and the process for appeal. Grounds for the commissioner's intent to revoke a permit shall include any of the following:

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b-1. The operator has a record of excessive, continuing or recurring violations.

b-2. The violations pose an immediate threat to the public's health or an imminent danger to other animals in the community and unsatisfactory action has been taken by the operator to eliminate the conditions.

b-3. A permit issued pursuant to this chapter has been suspended, and the corrections necessary for reinstatement of the permit have not been made within 6 months following notice of the suspension.

b-4. The operator or persons representing the operator have interfered with the lawful inspection or enforcement activities of the commissioner concerning the place of permit by physical abuse or denial of entry.

3. HEARING. Any person whose permit to operate an establishment or place regulated under this chapter has been suspended, or who has received notice from the commissioner that the permit is to be suspended unless existing conditions or practices at the establishment are corrected, or that the permit is to be revoked, may request and shall be granted a hearing on the matter before the commissioner. If no written petition for a hearing is filed in the office of the commissioner within 15 days following the day on which the notice was mailed or delivered, the permit shall be deemed to have been automatically suspended or revoked. Upon receipt of notice of permit suspension or revocation, the operator shall cease to operate the establishment. Upon receipt of petition for a hearing, the commissioner shall within 10 days notify the petitioner of the date, time and place of the hearing. Following the hearing the commissioner shall modify or withdraw the notice of permit suspension or revocation or shall suspend or revoke the permit, as in the commissioner's judgment is necessary to protect the public health, safety and welfare of the citizens of Milwaukee and shall notify the petitioner in writing of the decision.

4. APPEALS. Decisions of the commissioner may be appealed to the administrative review appeals board.

5. CITATIONS. The police department may issue citations for any violation of this chapter except that the police department may not determine an animal to be a prohibited dangerous animal under s. 78-25.

6. VIOLATIONS OF CERTAIN REGULATIONS. a. Any person violating any of the following provisions of this chapter listed in Column A for which specific penalties are not provided elsewhere in this subsection shall be liable on conviction to the penalties listed in column B and described in ch. 61:

A	B
78-3-1	Class I
78-5-1	Class F
78-5-2-a	Class C
78-5-2-b	Class L
78-5-2-c	Class F
78-5-3	Class C
78-7 to 78-19	Class C
78-22	Class F
78-23-1 to 78-23-7	Class F
78-23-10	Class I
78-25-1	Class K
78-27 to 31	Class F
78-35 to 47	Class C
78-49	Class F
78-53	Class F

b. b-1. Any person who commits a second or subsequent violation of s. 78-19-1 or who commits a second or subsequent violation of an order issued under s. 78-19-1 shall be liable upon conviction to a Class D penalty under ch. 61.

b-2. Any person who commits a first violation of s. 78-23-2, 78-23-3 or 78-23-4, or who commits a first violation of an order issued under s. 78-23-2, 78-23-3 or 78-23-4 that results in a dangerous animal being at large, shall be liable upon conviction to a Class I penalty under ch. 61.

b-3. Any person who commits a second or subsequent violation of s. 78-23-2, 78-23-3 or 78-23-4, or who commits a second or subsequent violation of an order issued under s. 78-23-2, 78-23-3 or 78-23-4 that results in a dangerous animal being at large, shall be liable upon conviction to a Class L penalty under ch. 61.

b-4. Any person who commits a violation of s. 78-23-1 that results in a dangerous animal causing bodily harm to a person shall be liable upon conviction to a Class L penalty under ch. 61.

b-5. Any person who commits a second or subsequent violation of s. 78-25-1 or who commits a second or subsequent violation of an order issued under s. 78-25-1 shall be liable upon conviction to a Class L penalty under ch. 61, each day of violation or noncompliance being a separate violation.

c. If a person continues in violation of an order, the person shall be liable for further prosecution, conviction and punishment upon the same order without the necessity of the commissioner issuing a new order.

7. CITATIONS. a. Citations may be issued for all violations listed in sub. 6 with or without a prior order or notice.

b. The stipulation, forfeiture and court procedure as set forth in s. 50-25 shall apply.

**78-(HISTORY) Animals****LEGISLATIVE HISTORY  
CHAPTER 78**Abbreviations:

am = amended  
cr = created

ra = renumbered and amended  
rc = repealed and recreated

m = renumbered  
rp = repealed

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
Ch. 78	rc	85-1880	4/15/86	5/1/86
Ch. 78	rc	960684	9/24/96	10/11/96
78-1-2	am	980963	12/18/98	1/1/99
78-1-4-a	am	870882	5/16/89	6/3/89
78-1-7	rc	980963	12/18/98	1/1/99
78-1-8.5	cr	870882	5/16/89	6/3/89
78-1-9.5	cr	980963	12/18/98	1/1/99
78-1-12.5	cr	891875	2/27/90	3/21/90
78-1-16	am	991763	5/14/2002	10/1/2002
78-1-19	am	871478	12/8/87	1/1/88
78-1-20	cr	870882	5/16/89	6/3/89
78-1-21	m to 78-1-22	010558	1/22/2002	2/5/2002
78-1-21	cr	010558	1/22/2002	2/5/2002
78-1-22	m to 78-1-24	010558	1/22/2002	2/5/2002
78-1-23	cr	010558	1/22/2002	2/5/2002
78-2-1	am	872295	3/8/88	3/25/88
78-2-2	am	940400	6/28/94	7/16/94
78-2-4	am	870882	5/16/89	6/3/89
78-3-1-a	am	872295	3/8/88	3/25/88
78-3-1-a	am	881803	1/24/89	2/11/89
78-3-1-b (title)	am	872295	3/8/88	3/25/88
78-3-1-c	cr	872295	3/8/88	3/25/88
78-3-2-a	am	881803	1/24/89	2/11/89
78-3-2-a	rc	951646	3/5/96	3/22/96
78-3-2-b	m to 78-3-2-c	951646	3/5/96	3/22/96
78-3-2-b	cr	951646	3/5/96	3/22/96
78-4-1	am	881803	1/24/89	2/11/89
78-5-1	am	881803	1/24/89	2/11/89
78-5-1	am	980963	12/18/98	1/1/99
78-5-2-a	am	980963	12/18/98	1/1/99
78-5-2-c	am	961654	3/4/97	3/20/97
78-5-4	am	980963	12/18/98	1/1/99
78-7-1-a	am	980963	12/18/98	1/1/99
78-7-2-a	am	980963	12/18/98	1/1/99
78-7-2-b-1-0	am	980963	12/18/98	1/1/99
78-7-2-c	rc	970562	7/25/97	8/13/97
78-7-2-d	cr	970562	7/25/97	8/13/97
78-8-3	am	881803	1/24/89	2/11/89
78-9-1	am	980963	12/18/98	1/1/99
78-9-4	am	980963	12/18/98	1/1/99
78-10-2	am	881803	1/24/89	2/11/89
78-11-1	am	980963	12/18/98	1/1/99
78-11-5	am	921354	12/18/92	1/12/93
78-11-5	am	931716	3/8/94	3/25/94
78-11.4	cr	870882	5/16/89	6/3/89
78-11.5	cr	870882	5/16/89	6/3/89
78-11.5-11	m	891875	2/27/90	3/21/90
78-11.5-11-b	cr	891875	2/27/90	3/21/90

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78-13	am	980963	12/18/98	1/1/99
78-19-1-0	am	980963	12/18/98	1/1/99
78-19-1-d	am	980963	12/18/98	1/1/99
78-19-4	am	980963	12/18/98	1/1/99
78-20-5	cr	881114	10/11/88	10/21/88
78-21-1	am	980963	12/18/98	1/1/99
78-22	cr	010558	1/22/2002	2/5/2002
78-22	rc	030887	11/5/2003	11/22/2003
78-23-1	rc	961654	3/4/97	3/20/97
78-23-1-c	cr	971256	12/16/97	1/8/98
78-23-2	am	010558	1/22/2002	2/5/2002
78-23-7	am	980963	12/18/98	1/1/99
78-23-9	rc	961654	3/4/97	3/20/97
78-23-9	am	980963	12/18/98	1/1/99
78-23-10	am	980963	12/18/98	1/1/99
78-23-12	am	980963	12/18/98	1/1/99
78-25-2-b	rc	961654	3/4/97	3/20/97
78-25-2-b	am	980963	12/18/98	1/1/99
78-25-2-b	am	981371	1/19/99	2/5/99
78-25-2-b	am	030087	11/5/2003	11/22/2003
78-25-2-d	am	980963	12/18/98	1/1/99
78-25-4	am	980963	12/18/98	1/1/99
78-25-5	am	980963	12/18/98	1/1/99
78-27-1	am	980963	12/18/98	1/1/99
78-27-2	rc	970122	5/13/97	5/31/97
78-27-2	am	980963	12/18/98	1/1/99
78-28-1-a	am	870882	5/16/89	6/3/89
78-28-2-b	am	881930	3/7/89	3/25/89
78-29-1	am	980963	12/18/98	1/1/99
78-29-2	am	980963	12/18/98	1/1/99
78-31-5	rp	980963	12/18/98	1/1/99
78-31-5	cr	010558	1/22/2002	2/5/2002
78-33	am	980963	12/18/98	1/1/99
78-37	am	980963	12/18/98	1/1/99
78-49	am	980963	12/18/98	1/1/99
78-51	am	980963	12/18/98	1/1/99
78-53-2	am	980963	12/18/98	1/1/99
78-55-1	rc	961654	3/4/97	3/20/97
78-55-1-a-0	am	980963	12/18/98	1/1/99
78-55-3	am	980963	12/18/98	1/1/99
78-56-6-a	am	010558	1/22/2002	2/5/2002

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